

**BOISE, TUESDAY, AUGUST 12, 2008, AT 9:00 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 33976**

<b>SHEY MARIE SCHOGER,</b>	)
	)
<b>Petitioner-Appellant,</b>	)
	)
<b>v.</b>	)
	)
<b>STATE OF IDAHO,</b>	)
	)
<b>Respondent.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Joel D. Horton, District Judge.

Dennis A. Benjamin of Nevin, Benjamin, McKay & Bartlett, LLP, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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The state charged Shey Marie Schoger with trafficking in methamphetamine in an amount of 400 grams or more, possession of marijuana with intent to deliver, and possession of psilocybin with intent to deliver. The parties reached a plea agreement and presented it to the district court. The district court, however, rejected Schoger's guilty plea.

The case proceeded to trial on the original charges. At the close of the state's evidence, Schoger moved for a judgment of acquittal. The district court granted Schoger's motion as to the charge of possession of marijuana with intent to deliver, but denied the motion as to the remaining charges. The jury found Schoger guilty of trafficking in methamphetamine in an amount of 400 grams or more and of possession of psilocybin with intent to deliver. The district court sentenced Schoger to a unified term of fifteen years, with a minimum period of confinement of ten years, for trafficking in methamphetamine and 219 days for the possession of psilocybin. The district court granted Schoger credit for 219 days that she served in county jail during the criminal proceedings. The district court also imposed fine of \$25,000. Schoger appealed, challenging only the reasonableness of her sentence. This Court affirmed her sentence in an unpublished opinion.

Schoger filed a pro se application for post-conviction relief. The district court appointed post-conviction counsel, and Schoger filed an amended application. The state filed an answer and a motion for summary dismissal. The district court summarily dismissed Schoger's amended application. Schoger appeals, asserting that she raised a genuine issue of material fact

as to whether her trial counsel provided ineffective assistance in preparing her to plead guilty, whether the district court erred in rejecting her guilty plea, and whether her appellate counsel provided ineffective assistance in failing to challenge the district court's rejection of her guilty plea.

**BOISE, TUESDAY, AUGUST 12, 2008, AT 10:30 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 34525**

<b>STATE OF IDAHO,</b>	)
	)
<b>Plaintiff-Respondent,</b>	)
	)
<b>v.</b>	)
	)
<b>DON KELLY COLE,</b>	)
	)
<b>Defendant-Appellant.</b>	)
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Appeal from the District Court of the Third Judicial District, State of Idaho, Adams County. Hon. Gordon W. Petrie, District Judge; Hon. A. Lynn Krogh, Magistrate.

David L. Posey, Payette, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Ralph R. Blount, Deputy Attorney General, Boise, for respondent.

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Don Kelly Cole appeals from his misdemeanor conviction for resisting and obstructing officers. He contends that the magistrate erred by denying a proposed jury instruction, that his actions did not violate the law because the officers had no probable cause to arrest him, and that the magistrate erred by imposing a term of probation requiring that Cole complete a domestic violence class.

**BOISE, TUESDAY, AUGUST 12, 2008, AT 1:30 P.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 34017**

<b>STATE OF IDAHO,</b>	)
	)
<b>Plaintiff-Respondent,</b>	)
	)
<b>v.</b>	)
	)
<b>MICHAEL JORDAN WRIGHT, aka ROBO,</b>	)
<b>ROBO-G, COON, JAMAL, ATKINS,</b>	)
<b>LOONEY,</b>	)
	)
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Cheri C. Copsey, District Judge.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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Michael Jordan Wright appeals from his jury conviction for second degree murder. He contends that the district court erred at trial by excluding the testimony of a defense expert about factors affecting the reliability of eyewitness identification and by refusing a proffered jury instruction on factors to be considered in determining the accuracy of an eyewitness identification. He also contends that his life sentence, with sixty years fixed, is excessive.